Annex to the letter dated 10 May 2011 from the Permanent Representative of Poland to the United Nations addressed to the Chair of the Committee

Report of the Republic of Poland on the implementation of Security Council resolution 1929 (2010), adopted by the Council at its 6335th meeting, on 9 June 2010

Poland, as a member of the European Union (EU), implements the restrictive measures against Iran imposed by the Security Council in its resolution 1929 (2010) by direct application of the provisions laid down in Council Regulation (EU) No. 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007. This regulation was adopted in line with Council Decision CFSP/413/2010, providing a common approach to the issue and with a view to ensuring the uniform application of the measures by all concerned.

Measures undertaken with a view to counteracting financial operations related to Iranian proliferation-sensitive nuclear activity

Notwithstanding the direct application and binding force of the Regulation in all Member States, following its adoption the Ministry of Finance issued a communiqué on duties arising out of the Regulation, such as, inter alia, either vigilance concerning business activities with Iran or restriction on transfer of funds from and to Iranian persons, entities and bodies.

As explicitly stipulated in chapter IV of the Regulation, it is also mandatory for institutions to freeze assets belonging to, owned, held or controlled by the persons, entities and bodies listed in annexes VII and VIII; the former includes entities designated by the United Nations Security Council or the Sanctions Committee pursuant to relevant Council resolutions (1737 (2006), 1803 (2008), 1929 (2010)), whereas the latter includes other entities not covered by annex VII but meeting specified criteria such as contribution to proliferation-sensitive nuclear activities of Iran.

Since the Regulation, in its chapter V, also provides for restriction on the transfer of funds from and to Iranian persons, entities and bodies, such transfer may be processed only in a way laid down in the Regulation. Institutions are therefore required to seek an authorization for transactions exceeding the threshold of 40,000 euros, unless provided otherwise, and are bound to provide notification in advance of any transaction exceeding the threshold of 10,000 euros. Moreover, it is directly set forth in the Regulation that credit and financial institutions are required to exercise continuous vigilance, to complete all information fields in payment instructions, to maintain records of transactions for a period of five years and make them available to national authorities, and to submit reports on proliferation-related transactions to the Financial Intelligence Unit.

It should also be noted that, in order to facilitate compliance with the aforementioned obligations, the communiqué provides a relevant template regarding required information, and indicates the means of transferring the information in question to the Financial Intelligence Unit.

Apart from the Regulation, the Act of 16 November 2000 on counteracting money-laundering and terrorism financing provides, at the national level, a relevant procedure enabling the competent authority to release, under enumerated circumstances, frozen assets, and sets forth penalties for infringement of the assets-freezing obligation.

Measures undertaken with a view to counteracting trade in goods related to Iranian proliferation-sensitive nuclear activity

After the Security Council had issued resolution 1737 (2006), the Polish Council of Ministers issued the Decree of 1 August 2007 changing the Decree of November 2004 on the establishment of the ban on and limitation of the export of goods of strategic importance for the security of the State (Official Journal of 2004, No. 255, Item 2557; this Amendment was published in the Official Journal of 2007, No. 146, Item 1020).

Both the original Decree and the Amendment are based on article 6.6 of the Act of 29 November 2000 on foreign trade in goods, technologies and services of strategic importance for the security of the State and the maintenance of international peace and security (Official Journal of 2004, No. 229, Item 2315; changed by later amendments).

The Decree of 1 August 2007 added the Islamic Republic of Iran to the list of countries covered by the ban on the export of goods of strategic importance for the security of the State from the territory of Poland (the list is an attachment to the Decree). The ban on export covers weapons, ammunition and double-use goods which could potentially support the Iranian nuclear programme, according to resolution 1737 (2006) and Council Common Position 2007/140/CFSP.

The Minister of Economy, who is entitled to grant export licences according to the provisions of the Act on foreign trade in goods, technologies and services of strategic importance for the security of the State and the maintenance of international peace and security, may issue an export licence after receiving the opinions of a number of authorities: the Minister for Foreign Affairs, the Defence Minister, the Minister of Internal Affairs, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, the Finance Minister and the President of the National Atomic Energy Agency. These authorities issue their opinions taking into consideration the scope of their competences and all the factual information in their possession.

Internal Security Agency activities related to the implementation of Security Council resolution 1929 (2010)

In formulating its opinions, the Internal Security Agency takes into consideration its tasks, established by the Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002. According to article 5.1 of the Act, the tasks of the Agency shall include: recognizing, preventing and fighting threats aimed against the internal security of the State, against its constitutional order, and especially against its sovereignty and international position, the independence and inviolability of its territory, and its defence system. According to our interpretation, fighting threats against the international position of the Republic of Poland shall include observing the international obligations of the Republic of Poland and preventing the breach thereof.

It should be mentioned that, according to article 5 of the Internal Security Agency and Foreign Intelligence Agency Act, the tasks of the Agency shall include: recognizing, preventing and exposing crimes involving the production and trade in goods, technologies and services of strategic importance for the security of the State, and crimes involving the illegal production and possession of and trade in weapons, ammunition and explosive materials and weapons of mass destruction, as well as collecting and analysing information in a clandestine way.

Another important area of the implementation of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010) is the question of the regulation of the movement of people. The Internal Security Agency also possesses certain competences in this field. Before issuing an entry visa, the Polish consul may ask the Head of the Office for Foreigners if the entry of a person could pose a threat to the public defence, the security of the State, public security or public order or prejudice important interests of the Republic of Poland. The Head of the Office for Foreigners shall consult on such matters with a number of competent authorities, including the Head of the Internal Security Agency.

Activities of the Polish Border Guard aimed at preventing the illicit transfer of items prohibited by Security Council resolutions

With regard to the transborder movement of weapons, ammunition and dual-use goods, Polish Border Guard officers carry out border control activities, including those provided for in the Act of 29 November 2000 on foreign trade in goods, technologies and services of strategic importance for the security of the State and the maintenance of international peace and security (Official Journal of 2004, No. 229, Item 2315, and Official Journal of 2009, No. 18, Item 97). Therefore, Polish Border Guard border control activities include routine verification of the possession of permissions and declarations required on the basis of article 6 (1) and (2) of the Act. The permissions and declarations are issued by the Ministry of Economy, which is a national export control body. The Border Guard did not notice any cases of the refusal of permission to cross the border on the basis of provisions of Security Council resolution 1929 (2010). It is necessary to add that control of the transborder traffic of goods is generally under the competence of the Customs Service.

The Border Guard cooperates with other law-enforcement services, State security agencies and relevant State ministries in the framework of non-proliferation activities, including formal participation in the Inter-Agency Counter-Proliferation and Proliferation Security Initiative Implementation Team. These activities increase vigilance and institutional cooperation capabilities in terms of non-proliferation.

The Border Guard, as the main service responsible for radiometric control at borders, is constantly improving its capabilities to prevent and detect the illicit transfer of nuclear and radioactive materials. The Border Guard is also developing international cooperation in this field, especially with the International Atomic Energy Agency and the United States Department of Energy in the framework of the Second Line of Defence project.

Activities of the Polish Border Guard aimed at preventing entry into or transit through Polish territory by individuals pursuant to Security Council resolutions

In terms of the refusal of the entry and transit of persons indicated in the annex to resolution 1737 (2006) (sects. C, D and E), annex I to resolution 1747 (2007), annex I to resolution 1803 (2008) and annexes I and II to resolution 1929 (2010), the Border Guard undertakes activities stemming from the results of searches in the Schengen Information System and in adequate national databases, which are used in the border clearance process. The Head of the Office for Foreigners is empowered to introduce entries to the list of persons whose stay in Poland is undesirable. The entries are introduced upon the motion of the Office itself or of the relevant State authorities.